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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

0220-074

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Name _____

Application Number

09/733,299

Filed

December 8, 2000

First Named Inventor

Edgar E. BLANCO

Art Unit

3623

Examiner

Johnna Ronee Loftis

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 35,023

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____

Signature

Steven M. duBois

Typed or printed name

(540) 361-1863

Telephone number

January 18, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1450.

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Patent
Attorney's Docket No. 0220-074

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	MAIL STOP AF
)	
Edgar E. BLANCO)	
)	Group Art Unit: 3623
Application No.: 09/733,299)	
)	Examiner: Johnna Ronee Loftis
Filed: December 8, 2000)	
)	
For: FORECASTING TOOL FOR)	
PREDICTING FUTURE)	
DEMAND FOR PARTS/)	
MATERIALS/EQUIPMENT)	

PRE-APPEAL REQUEST FOR REVIEW

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

In conjunction with the Notice of Appeal filed concurrently herewith, reconsideration and allowance of the above-identified application are respectfully requested for at least the following reasons.

In the Response to Arguments section of the Final Office Action, it is stated that "Applicant agrees with Examiners assertion that it would be obvious to store the data in tables such as those provided by Microsoft Excel..." Applicant strenuously disagrees with this characterization of the Remarks submitted with the Reply filed on July 6, 2005. Instead, as clearly articulated in that Response, Applicant made two arguments. First, even assuming for the sake of argument that it would have been obvious to store some data from the system of Gleditsch in tables such as those provided in a Microsoft Excel spreadsheet, the result still would not have enabled one of ordinary skill to have arrived at Applicant's claimed combination. Second, Applicant further disagreed that one of ordinary skill in the art would have been motivated in the first place to have modified the system of Gleditsch to have provided tables based merely upon the notion that spreadsheets are known *per se* e.g., via Microsoft Excel spreadsheets. These distinct arguments will be

resummarized below after a brief summary of exemplary embodiments of the present invention.

According to exemplary embodiments of the present invention, a forecasting tool is provided that enables a user to predict future demand for quantifiable items in connection with a plurality of projects. The exemplary forecasting tool has multiple tables, each of which contains information that is used in the forecasting process. For example, a project table has project information for each project, including references to items (materials) to be employed in connection with the project. An item table has item information for each item referenced by the project table, e.g., an algorithm to be employed to determine a quantity of the item for a particular project. An algorithm table includes algorithm information for each algorithm referenced by the item table. Thus, the quantity of a needed item for a particular project may be determined by determining the specifics of the relevant algorithm(s), obtaining inputs used by the relevant algorithm(s) from the tables and applying the inputs to the algorithms.

1. **There Was No Motivation For One of Ordinary Skill in the Art to Have Combined Gleditsch With Microsoft Excel Spreadsheets in a Manner Which Would Have Resulted in Applicant's Claimed Combinations**

As discussed below, it is respectfully submitted that no possible combination of Gleditsch and some *per se* knowledge of Microsoft Excel spreadsheets would have enabled one of ordinary skill in the art to have arrived at Applicant's claimed combinations. Moreover, there was no motivation at the time the invention was made to have combined Gleditsch with Microsoft Excel spreadsheets in the first place in manner which would have arrived at Applicant's claimed table structures. As is clear from reading the Gleditsch patent, this document is unconcerned with the manner in which data will be stored, organized and integrated in order to achieve the described processing steps. At most, Gleditsch makes a general reference to a

database for storing predefined parameters, information about customer orders and historical data. See, e.g., column 4, lines 20-23 of Gleditsch.

Despite this silence, all of the Applicant's claim tables are deemed to have been obvious based on the general notion that Excel spreadsheets were known at the time of the present invention. However, it is respectfully submitted that mere knowledge that spreadsheets existed is insufficient to have motivated one of ordinary skill in the art to have provided spreadsheets to the system of Gleditsch in a way that would have resulted in Applicant's claimed data structures. In particular, it appears that Gleditsch's database was sufficient to enable the processing methods described therein to be implemented and that there would have been no reason for one of ordinary skill in the art, based merely upon general knowledge of Excel spreadsheets, to have somehow determined that grafting such spreadsheets onto the system of Gleditsch would have been desirable in any way.

In the Official Action, it is mentioned that "the use of Microsoft Excel spreadsheets within Gleditsch et al.'s system as a way to keep the data organized in an efficient user-friendly manner." However, it is respectfully submitted that there is no evidence in any of the documents of record that suggest that Gleditsch's system would have benefited from some additional spreadsheets to further keep the data organized. It is respectfully submitted that this motivation can only be considered the product of hindsight reconstruction based on Applicant's own specification and, therefore, is insufficient to establish a prima facie case of obviousness.

2. **Even Assuming (Strictly Arguendo), That It Would Have Been Obvious to Add Tables To The System Of Gleditsch, Applicant's Claim 1, 16 And 20 Combinations Would Not Have Resulted**

Applicant respectfully submits that even if one were to somehow graft Microsoft Excel spreadsheets onto the system of Gleditsch, Applicant's independent claim combinations would not have resulted from such a combination. More specifically, and as an example, Applicant's claim 1 combination recites four

different tables. Specifically, a project table having certain information, an item table having different information, an algorithm table having algorithm information which is referenced in the item table, and a requirements table populated by querying demand for items and traversing tables of the database. Even if one were to somehow modify Gleditsch based upon the *per se* notion that spreadsheets and tables exist, there is no motivation absent hindsight reference to Applicant's own specification which would have resulted in the specific four tables recited in Applicant's claim 1 combination. The mere fact that Gleditsch operates on data similar to that which is recited in Applicant's claim 1 combination is not sufficient to establish a *prima facie* case of obviousness that the four tables listed in claim 1 would necessarily result upon some hypothetical combination of Gleditsch with Microsoft Excel spreadsheets.

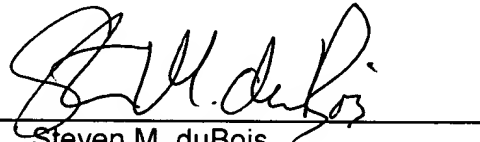
Additionally, the tables interact with one another in a manner which is not taught or suggested by the cited documents. For example, the algorithm table has an algorithm table for each algorithm referenced in an item table. Thus, even if one were to create some number of tables in Gleditsch based upon the general, unspecific notion that tables are an easy way to organize data, there simply is no suggestion in Gleditsch that would have induced one of ordinary skill in the art to create an item table and an algorithm table which interact with one another in the manner specified in Applicant's claim 1 combination. Only Applicant's specification describes this combination of elements. Similar comments apply to Applicant's claim 16 and 20 combinations.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 1-20 under 35 U.S.C. § 103 over Gleditsch in view of Microsoft Excel spreadsheets be reconsidered and withdrawn. All of the objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that this application is in condition for Allowance and a Notice to the effect is earnestly solicited. Should the Examiner have any questions regarding the foregoing, she is encouraged to contact the undersigned at 540-361-1863.

Respectfully submitted,

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Date: January 18, 2006

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